IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

Tr.P(Crl.).No. 97 of 2006()

CC.679/2005 of J.M.F.C.-III, PUNALUR

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PETITIONER:

LEELA MANI, SIVAKRIPA,
MANJAKKALA, THALAVOOR VILLAGE,
KOLLAM DISTRICT.

BY ADV. SRI.C.R.SIVAKUMAR
SMT.G.VIDYA

RESPONDENTS:

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1. THE STATE OF KERALA REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
KUNNIKODE POLICE STATION, KOLLAM DISTRICT,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA.

2. SUMATHI, W/O.SURENDRAN, PLAVILA VEEDU,
MAJAKKALA, THALAVOOR, KOLLAM.

3. GEETHA, SUGIN BHAVAN,
MANJAKKALA, THALAVOOR, KOLLAM.

BY P.P. SRI.K.A. AKBAR.

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Tr.P.(Cri).NO. 97 OF 2006

Dated this the 24th day of November, 2006

ORDER

In this petition, the petitioner prays that a case pending against her before the court at Punalur may be transferred to any other court at Punalur, Kottarakkara or Pathanamthitta. Punalur and Kottarakkara fall within the Sessions Division of Kollam and Pathanamthitta falls within the Sessions Division of Pathanamthitta.

2. Reckoned as a prayer to transfer the case to any other court at Punalur or Kottarakkara, this petition cannot be entertained in view of the bar under the proviso to Sec.407(2) of the Cr.P.C. Reckoned as a prayer for transfer to the court at Pathanamthitta, the bar under the proviso to Sec.407(2) of the Cr.P.C. will not apply. I am hence proceeding to consider this petition notwithstanding the bar under the proviso to Sec.407(2) of the Cr.P.C.

3. The petitioner faces indictment in a prosecution under Secs.452 and 324 of the IPC. The police have charge sheeted the case. Investigation is complete. Final report has

been filed. Cognizance has been taken. All steps are complete. The principal witnesses have already been examined in court. The petitioner has come to this Court with this prayer for transfer on the ground that certain conduct of the learned Magistrate in the course of the proceedings has sent down an apprehension in the mind of the petitioner that she may not get justice at the hands of the learned Magistrate.

4. What are the circumstances? The witnesses examined by the prosecution raised a grievance that they were intimidated by the petitioner. On getting that complaint, the learned Magistrate asked the petitioner to stand in a corner of the court room. This was repeated on the next date also. A report was called for from the police. The police submitted a negative report, a copy of which is produced as Annexure-3. The learned Magistrate has given the de facto complainant an opportunity to file objections to the report. It is, in these circumstances, that the petitioner apprehends that she may not get justice at the hands of the learned Magistrate.

5. Having considered all the relevant circumstances, I am unable to agree that there is any room for any reasonable or genuine apprehension that the petitioner may not get justice at

the hands of the court. On receipt of the complaint of harassment/intimidation of the witnesses, the learned Magistrate could not certainly have kept quite. What the learned Magistrate has done cannot be said to reveal any prejudice or bias in the mind of the learned Magistrate. I have no reason to assume that the apprehension of the petitioner that she may not get justice at the of the learned Magistrate is real, reasonable or genuine. I am not satisfied that the case deserves to be transferred at the present stage when the principal witnesses have already been examined.

6. This transfer petition is, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge